

## Appendix B1

PROTOCOL FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS' USE  
OF SPECIALLY REGULATED FISHING METHODS AND FOR MANAGEMENT OF  
TRIBAL AND STATE WALLEYE FISHERIES IN WALLEYE LAKE SYSTEMS

This Protocol is adopted in accordance with Section XII of the Decree. The provisions of this Protocol are intended to facilitate implementation of Section XII of the Decree but shall not relieve any party of any obligation it has under the Decree. In the event of any inconsistency between the provisions of the Decree and the provisions of this Protocol, the provisions of the Decree shall be controlling. Except as authorized by this Protocol or otherwise authorized in the Decree or by mutual agreement of the Tribes and the State, the Tribes shall prohibit their members from using Specially Regulated Fishing Methods in Walleye Lake Systems. However, notwithstanding any other provision of this Protocol, if the State permits State licensees to use Specially Regulated Fishing Methods in Walleye Lake Systems: (1) the Tribes may permit their members to use Specially Regulated Fishing Methods in Walleye Lake Systems subject to regulations that are no less restrictive than applicable State regulations; and (2) the Tribes and the State shall make appropriate adjustments, as may be necessary, to the provisions of this Protocol.

I. INTRODUCTION

1.1. **Use of Specially Regulated Fishing Methods in Walleye Lake Systems.** In accordance with Paragraphs 12.1 and 12.2 of the Decree, the Tribes may authorize their members to use Specially Regulated Fishing Methods in Walleye Lake Systems as provided in this Protocol, *provided* that the Tribes shall not authorize their members to use Impoundment Nets or Long Seines in tributaries to Walleye Lake Systems, except where the use of such gear is

permitted by State law or Paragraph 11.4 of the Decree. Short Seines are not subject to the provisions in this Protocol.

**1.2. Tribal and State Management of Walleye Fisheries.** The Tribes and State shall use this Protocol to manage their respective walleye fisheries in Walleye Lake Systems located within the 1836 Ceded Territory when use of Specially Regulated Fishing Methods is authorized. This Protocol is intended to provide the State and the Tribes with flexibility in managing their respective fisheries in Walleye Lake Systems and to provide a mechanism for modification as biological, environmental, and social circumstances might require.

**1.3. Management Procedures for Specially Regulated Fishing Methods.** The Tribes' authorization of their members' use of Specially Regulated Fishing Methods in a Walleye Lake System shall be subject to either the Threshold Level Procedures described in Section VI of this Protocol, or the Allocation-Based Procedures described in Section VII of this Protocol. The foremost objective for each of these management procedures is to maintain the total annual exploitation rate of Adult Walleyes in a Walleye Lake System by Tribal and State-licensed fishers at or below the agreed upon Total Allowable Annual Exploitation Rate, and to provide equivalent protections for other species of fish in a Walleye Lake System, as may be necessary, although the procedures differ in how this foremost objective is accomplished. Threshold Level Procedures require moderate management effort in accounting for harvest and Fishing activity and do not require population assessments. Allocation-Based Procedures require rigorous management by the State and the Tribes, including comprehensive monitoring of harvest and Fishing activity and population assessments.

**1.4. Choice of Management Procedures; Fishing Effort Limitations under Threshold Level Procedures.** The amount of Fishing Effort using Specially Regulated Fishing

Methods that the Tribes authorize in a particular Walleye Lake System shall determine whether Allocation-Based Procedures or Threshold Level Procedures shall be used in that Walleye Lake System. This Protocol establishes a Threshold Harvest Level applicable to the use of Specially Regulated Fishing Methods by Tribal members for each Walleye Lake System at a level that minimizes the risk that Tribal and State-licensed fishers will exceed the Total Allowable Annual Exploitation Rate for that Walleye Lake System. Unless one or more of the Tribes invokes Allocation-Based Procedures in a particular Walleye Lake System, the Tribes must limit their members' use of Specially Regulated Fishing Methods in that Walleye Lake System in accordance with Paragraph 6.5 of this Protocol. The Fishing Effort restrictions in Paragraph 6.5 of this Protocol are designed to ensure that the total harvest of Adult Walleyes with Specially Regulated Fishing Methods in a Walleye Lake System is below the Threshold Harvest Level for that Walleye Lake System.

**1.5. Tribal Authorization of Fishing with Methods Other Than Specially Regulated Fishing Methods Not Limited.** Except as provided in Section VIII of this Protocol, the Tribes' authorization of their members' use of fishing methods other than Specially Regulated Fishing Methods in Walleye Lake Systems is not limited by this Protocol, but Tribal members' harvests of Adult Walleye using such other methods shall be estimated and taken into account under Allocation-Based Procedures as set forth in Paragraphs 7.3 and 7.4(c) of this Protocol.

## II. DEFINITIONS

As used in this Protocol, the terms defined in Section III (Definitions) of the Decree shall have the meanings ascribed to them in that Section. In addition, the following terms shall have the meanings ascribed to them in this Section II:

2.1. “Adult Walleye” means a walleye that is at least 15 inches in length or a walleye of any size for which sex can be determined by extruding gametes.

2.2. “Fishing Effort” means the amount of time spent Fishing using a specified type of Fishing gear or method.

2.3. “Total Allowable Annual Exploitation Rate” means the proportion of fish that can safely be harvested from a fish population during a one-year period.

2.4. “Natural Recruitment Walleye Lake System” means a Walleye Lake System in which the population of Adult Walleyes is comprised of 50% or more walleyes that are naturally produced or in which the population of Adult Walleyes is comprised of unknown percentages of naturally produced and stocked walleyes.

2.5. “Overfishing” means the harvest of fish of any species by State and/or Tribal fishers at an annual exploitation rate that is greater than the Total Allowable Annual Exploitation Rate for that species in a particular Lake System.

2.6. “Stocked Walleye Lake System” means a Walleye Lake System in which the population of Adult Walleyes is comprised of more than 50 percent walleyes that are stocked.

2.7. “Threshold Exploitation Level” means the maximum annual exploitation rate for Adult Walleyes using Specially Regulated Fishing Methods in a Walleye Lake System that is allowed under Threshold Level Procedures.

2.8. “Threshold Harvest Level” means the maximum annual number of Adult Walleyes that can be authorized for harvest by the Tribes with the use of Specially Regulated Fishing Methods in a Walleye Lake System under Threshold Level Procedures. The Threshold Harvest Level is equal to the estimated number of adult fish times the Threshold Exploitation Level.

### III. WALLEYE LAKE SYSTEMS

Table 1 of this Protocol contains an initial list of Walleye Lake Systems in the 1836 Ceded Territory. The Tribes and the State shall add additional Lake Systems to the list of Walleye Lake Systems upon request of any Tribe or the State if those Lake Systems meet the definition of a Walleye Lake System in Paragraph 3.28 of the Decree. Similarly, the Tribes and the State shall remove Lake Systems from the list of Walleye Lake Systems upon request of any Tribe or the State if those Lake Systems no longer meet the definition of a Walleye Lake System in Paragraph 3.28 of the Decree. A request to add a Lake System to or remove a Lake System from the list of Walleye Lake Systems, including the supporting biological documentation, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which Lake System is to be added to or removed from the list of Walleye Lake Systems, or by such other date as may be mutually agreed upon by the State and the Tribes. The list of Walleye Lake Systems shall be updated with any changes by December 15 of the year the request was received.

### IV. WALLEYE POPULATION ESTIMATES

Walleye population estimates are essential to the proper management of walleye harvest under this Protocol. Walleye population estimates shall be calculated according to the following methods.

4.1. **Walleye Population Regression Equations.** Except as provided in Paragraph 4.2, the Tribes and the State agree to use the following regression equations to estimate the Adult Walleye population in each Walleye Lake System. In addition, the Tribes and the State shall review these equations and any substitute equations every five years and may change them by mutual agreement.

**Equation 1 -- Adult Population Estimate for a Natural Recruitment Walleye Lake System:**

$$\text{I.} \quad \ln(N) = 1.519 + 0.956 \times \ln(A)$$

**Equation 2 -- Adult Population Estimate for a Stocked Walleye Lake System:**

$$\text{II.} \quad \ln(N) = 1.037 + 0.897 \times \ln(A)$$

where for both equations,

$N$  = estimate of the Adult Walleye population, *i.e.*, the number of Adult Walleyes on the spawning grounds, and

$A$  = surface area of the Walleye Lake System in acres, excluding tributaries.

The Tribes and the State shall collaborate in a project to develop criteria for determining the classification of Walleye Lake Systems (*i.e.*, Natural Recruitment Walleye Lake Systems versus Stocked Walleye Lake Systems, including sub-classifications if appropriate) and regression equations for each classification type that are specific to Michigan, based upon empirical estimates of population sizes of Adult Walleyes derived for Walleye Lake Systems in the 1836 Ceded Territory. The design of the project shall commence within two years of the entry of the Decree by the Court. Upon mutual agreement of the State and the Tribes that a Michigan regression equation or equations developed in this project provides more accurate estimates than the corresponding Equation 1 or Equation 2 above, the Tribes and the State shall use the Michigan regression equation or equations in place of the corresponding Equation 1 or Equation 2 above. If such mutual agreement is not attainable by the State and the Tribes, the State and the Tribes shall each select an independent expert to determine the accuracy of a Michigan regression equation or equations developed in this project. If the selected experts are unable to agree, they shall jointly select a third expert to resolve the matter. In addition, the Tribes and the State shall continue to update the Michigan regression equation or equations with any new

empirical estimates of population sizes of Adult Walleyes derived for Walleye Lake Systems in the 1836 Ceded Territory.

4.2. **Empirical Population Estimates of Adult Walleyes.** The Tribes and the State shall develop a mutually agreeable protocol for conducting walleye population assessments. An Adult Walleye population estimate derived from a walleye population assessment in a Walleye Lake System shall be used in place of the regression equations described in Paragraph 4.1. An empirical population estimate of Adult Walleyes for a Walleye Lake System shall be recorded and shall be used for five years, or until an empirical population estimate of Adult Walleyes is calculated from a new population assessment to replace it. After five years, an empirical population estimate of the Adult Walleyes for a Walleye Lake System shall be discarded and shall be replaced with the population estimate of Adult Walleyes using the applicable regression equation under Paragraph 4.1 of this Protocol.

4.3. **Alternative Methods.** Upon mutual agreement of the Tribes and the State, an alternative method for estimating the Adult Walleye population in a Walleye Lake System may be implemented. If the alternative method is not based on empirical population estimates from Walleye Lake Systems in Michigan, then the Tribes and the State shall determine and apply, as set forth in Paragraph 7.2 of this Protocol, mutually agreeable percentage reductions for the value of N in Equation 3, when Fishing under Allocation-Based Procedures in Walleye Lake Systems of 1,000 surface acres or more (excluding tributaries).

4.4. **Initial Estimates.** Table 1 of this Protocol sets forth the initial Adult Walleye population estimate in each Walleye Lake System listed in Table 1, using the methodologies set forth in Paragraphs 4.1 and 4.2 of this Protocol and available information on the surface area of Walleye Lake Systems (excluding tributaries) and the source of Adult Walleye recruitment in

such Systems. The Tribes and the State shall revise the Adult Walleye population estimates in Table 1 in accordance with Paragraphs 4.2 and 4.3 of this Protocol and/or on the basis of additional information on the surface area of Walleye Lake Systems (excluding tributaries) or the source of Adult Walleye recruitment in such Systems, as appropriate. A request to revise an Adult Walleye population estimate for a Walleye Lake System, including the supporting information, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which the revised estimate is to take effect or by such other date as may be mutually agreed upon by the Tribes and the State. The Adult Walleye population estimate shall be revised by December 15 of the year the request was received.

#### V. TOTAL ALLOWABLE ANNUAL EXPLOITATION RATES AND TOTAL HARVEST LEVELS

The Tribes and State shall manage their respective fisheries in accordance with this Protocol to prevent the combined harvest by Tribal and State-licensed fishers from exceeding the Total Allowable Annual Exploitation Rates and Total Harvest Levels for Adult Walleyes in Walleye Lake Systems.

**5.1. Total Allowable Annual Exploitation Rates.** The Total Allowable Annual Exploitation Rate for Adult Walleyes in each Walleye Lake System shall be 35% of the estimated Adult Walleye population in that Walleye Lake System, *provided* that the Total Allowable Annual Exploitation Rate for Adult Walleyes is subject to change on any Walleye Lake System by mutual agreement of the Tribes and the State. A request to change the Total Allowable Annual Exploitation Rate for Adult Walleyes in a Walleye Lake System, including the supporting biological documentation and duration of the proposed change, shall be submitted in writing to all Tribes and the State by July 1 of the year preceding the effective date of the proposed change, or by such other date as may be mutually agreed upon by the State and the

Tribes, and shall be reviewed by State and Tribal biologists to ensure that the change shall protect the walleye population in that Walleye Lake System and that the change shall comply with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested change by December 15 of the year the request was received. If the Tribes and the State agree to change the Total Allowable Annual Exploitation Rate for a Walleye Lake System, then the new Total Allowable Annual Exploitation Rate for that Walleye Lake System shall be recorded and used in future management for the agreed upon duration or until changed by mutual agreement of the Tribes and the State under this Paragraph 5.1.

5.2. **Total Harvest Levels.** The Total Harvest Level for Adult Walleyes in any Walleye Lake System shall be calculated as shown in Equation 3.

**Equation 3 -- Total Harvest Level for Adult Walleyes:**

$$\text{III. } H_{tot} = N \times E_{tot}$$

where,

$H_{tot}$  = Total Harvest Level for Adult Walleyes;

$N$  = the estimated number of Adult Walleyes in the Walleye Lake System determined in accordance with Section IV of this Protocol; and

$E_{tot}$  = Total Allowable Annual Exploitation Rate as defined in Paragraph 5.1 of this Protocol.

**VI. THRESHOLD LEVEL PROCEDURES FOR WALLEYE LAKE SYSTEMS**

6.1. **Use of Threshold Level Procedures.** Unless one or more of the Tribes invokes Allocation-Based Procedures for a particular Walleye Lake System, the Threshold Level Procedures set forth in this Section VI shall be used if one or more Tribes authorizes its members to use Specially Regulated Fishing Methods in that Walleye Lake System.

**6.2. Objectives of Threshold Level Procedures; Methods for Achieving Objectives.** As set forth above, the foremost objective of Threshold Level Procedures is to maintain the total annual exploitation rate of Adult Walleyes by Tribal and State-licensed fishers in a Walleye Lake System at or below the Total Allowable Annual Exploitation Rate for that Walleye Lake System. A second objective is to maintain the total annual exploitation rates of other fish species in Walleye Lakes Systems at acceptable levels. A third objective of Threshold Level Procedures is to ensure that Tribal members have an opportunity to use Specially Regulated Fishing Methods in a Walleye Lake System to harvest Adult Walleyes and other fish species in that Walleye Lake System without requiring implementation of the more rigorous management practices required under Allocation-Based Procedures. These objectives are accomplished by: (1) setting a Threshold Exploitation Level with a corresponding Threshold Harvest Level in each Walleye Lake System, as set forth in Paragraphs 6.3 and 6.4 of this Protocol; (2) implementing a permit system that (a) controls harvest by limiting annual Fishing Effort by Tribal members using Specially Regulated Fishing Methods on each Walleye Lake System, such that the number of Adult Walleyes allowed for harvest using Specially Regulated Fishing Methods shall not exceed the Threshold Harvest Level for Adult Walleyes and (b) limits the use of Impoundment Nets and Long Seines to protect species other than walleye, both as set forth in Paragraph 6.5 of this Protocol; (3) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Paragraph 6.5 and Section VIII of this Protocol; and (4) utilizing appropriate State management of State-licensed fishers to limit exploitation rates on Adult Walleyes by such fishers to the difference between the Total Allowable Annual Exploitation Rate for Adult Walleyes and the Threshold Exploitation Level, in the event that, on the basis of available information, the combined exploitation rates by State-

licensed fishers and Tribal fishers are expected to exceed the Total Allowable Annual Exploitation Rate.

**6.3. Threshold Exploitation Levels.** Except as provided below, the Threshold Exploitation Level for each Walleye Lake System, which shall be used to limit the annual Fishing Effort by Tribal members using Specially Regulated Fishing Methods, is:

(a) Ten percent (10%) of the estimated Adult Walleye population in Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, *provided* that, if the estimated Adult Walleyes population is *not* based on a Michigan regression equation under Paragraph 4.1 of this Protocol, an empirical population estimate under Paragraph 4.2 of this Protocol, or an alternative method under Paragraph 4.3 of this Protocol, the Threshold Exploitation Level for such lakes shall be six percent (6%) of the estimated Adult Walleye population in 2008, eight percent (8%) of the estimated Adult Walleye population in 2009, and ten percent (10%) of the estimated Adult Walleye population in 2010 and thereafter, and

(b) Five percent (5%) of the estimated Adult Walleye population in Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, in all years.

The Threshold Exploitation Level in a Walleye Lake System can be adjusted up or down by mutual agreement between the State and the Tribes. Requests for such an adjustment shall include the duration of the proposed change and the supporting biological documentation that demonstrates that the proposed change to the Threshold Exploitation Level will not result in a total annual exploitation rate that exceeds the Total Allowable Annual Exploitation Rate for Adult Walleyes. If a Tribe elects to fund a creel survey to obtain such information, the State shall cooperate in conducting the study. Requests to adjust a Threshold Exploitation Level shall be submitted in writing to the State and all Tribes by July 1 of the year preceding the effective

date of the proposed adjustment, or by such other date as may be mutually agreed upon by the State and the Tribes. Requests for an adjustment to a Threshold Exploitation Level shall be reviewed by State and Tribal biologists to ensure that any adjustment will protect the walleye population and populations of other fish species in that Walleye Lake System and complies with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested adjustment to the Threshold Exploitation Level for a Walleye Lake System by December 15 of the year the request was received. If the Tribes and the State agree to adjust a Threshold Exploitation Level, the new level shall be recorded and shall be used in future management for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

6.4. **Threshold Harvest Levels.** In order to apply the Fishing Effort limitations set forth in Paragraph 6.5 of this Protocol, the Threshold Exploitation Level for a Walleye Lake System shall be converted to a Threshold Harvest Level for that Walleye Lake System (*i.e.*, the number of Adult Walleyes that the Tribes can authorize their members to harvest using Specially Regulated Fishing Methods in that Walleye Lake System under Threshold Level Procedures). The calculation of the Threshold Harvest Level for a Walleye Lake System is shown in Equation 4.

**Equation 4 -- Threshold Harvest Level:**

$$\text{IV. } H_{thl} = N \times E_{thl}$$

where,

$H_{thl}$  = Threshold Harvest Level;

$N$  = the estimated number of Adult Walleye in the Walleye Lake System, as determined in accordance with Section IV of this Protocol, and

$E_{thl}$  = the Threshold Exploitation Level for that Walleye Lake System, as determined in accordance with Paragraph 6.3.

**6.5. Fishing Effort Limitations under Threshold Level Procedures.**

(a) The Tribes shall limit their members' Fishing Effort for walleyes with Specially Regulated Fishing Methods in each Walleye Lake System subject to Threshold Level Procedures so that the number of Adult Walleyes allowed for harvest by Tribal members using such methods does not exceed the Threshold Harvest Level established for that Walleye Lake System under Paragraph 6.4. To achieve this objective, the Tribes shall require their members to obtain a Tribal permit for the use of Specially Regulated Fishing Methods that is specific to a Walleye Lake System and that specifies the starting date and time of each 24-hour period during which the permit is valid and a daily walleye bag limit. The number of walleyes allowed for harvest under each permit issued in accordance with this Subparagraph 6.5(a) shall equal the number of 24-hour periods for which the permit is valid times the daily walleye bag limit specified in the permit. The Tribes shall maintain a running tally of the number of walleyes allowed for harvest under such permits in each Walleye Lake System and, when the number of walleyes allowed for harvest under all such permits for a particular Walleye Lake System reaches the Threshold Harvest Level for that Walleye Lake System, the Tribes shall cease issuing permits for the use of Specially Regulated Fishing Methods to harvest walleyes in that Walleye Lake System.

(b) In addition to the limitation on the issuance of permits in Subparagraph 6.5(a), the Tribes shall limit the use of Impoundment Nets and Long Seines in each Walleye Lake System as provided in this Subparagraph 6.5(b). The Tribes shall limit each permit for the use of Impoundment Nets or Long Seines to the use of a single Impoundment Net

or a single Long Seine during one or more 24-hour periods. The total number of such 24-hour periods in all such permits in a particular Walleye Lake System shall be limited as follows:

i. No more than three (3) 24-hour periods per 100 surface acres per year in Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, rounded to the nearest whole number; and

ii. No more than one and one-half (1.5) 24-hour periods per 100 surface acres per year in Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, and rounded to the nearest whole number.

The Tribes shall maintain a running tally of the number of 24-hour periods in such permits for each Walleye Lake System and, when the number of such 24-hour periods under all such permits for a particular Walleye Lake System reaches the limit for that Walleye Lake System, the Tribes shall cease issuing permits for the use of Impoundment Nets or Long Seines for that Walleye Lake System.

(c) The provisions in Subparagraph 6.5(b) are intended to limit the amount of Fishing Effort with Impoundment Nets and Long Seines in order to protect species of fish other than walleyes. The Tribes and the State may by mutual agreement provide for an alternative mechanism to protect species of fish other than walleye in lieu of those provisions. A proposal to adopt an alternative mechanism to protect species of fish other than walleyes in a particular Walleye Lake System or Systems, including the supporting biological documentation and proposed duration of the alternative mechanism, shall be made in writing and sent to the State and all Tribes by July 1 of the year preceding the year in which the alternative mechanism is to be implemented, or by such other date as may be mutually agreed upon by the State and the Tribes. The Tribes and the State shall declare whether they agree to implement the proposal by

December 15 of the year the proposal was made. If the Tribes and the State agree to implement the proposal, the alternative mechanism shall be used for the particular Walleye Lake System(s) for which it was proposed for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

(d) The permit system, running tally of walleyes authorized for harvest, and running tally of 24-hour periods under Impoundment Net and Long Seine permits shall be coordinated among the Tribes to ensure that the combined Tribal harvest of walleyes that is authorized using Specially Regulated Fishing Methods does not exceed the Threshold Harvest Level for a Walleye Lake System and that the number of 24-hour periods in which Impoundment Nets or Long Seines may be used does not exceed the applicable limitation under Subparagraph 6.5(b).

(e) In determining whether to cease issuing permits for a specific Walleye Lake System, the Tribes may take into consideration reliable information regarding the actual harvest of walleyes in a Walleye Lake System. Reliable information, with respect to Tribal harvests with Specially Regulated Fishing Methods, as used in this Paragraph, is limited to: (1) the release or cancellation of a permit before the effective date of the permit; (2) information verified on-site by professional biological or law enforcement personnel; or (3) other information as mutually agreed by the Tribes and the State. In issuing permits under the provisions of this Paragraph 6.5, the Tribes may determine on a case-by-case basis the walleye bag limit of each permit in order to best achieve Tribal management objectives.

**6.6. Permit Requirements under Threshold Level Procedures.** The permits required under Threshold Level Procedures shall include the name of the Tribal member, the date(s) and 24- hour period(s) during which the permit is effective, the Walleye Lake System for

which the permit is issued, and the walleye bag limit for each 24-hour period authorized under the permit. The permits and the walleye bag limits shall be consistent with the management objectives of the Tribal permit system and the Threshold Level Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of the Threshold Level Procedures. The Tribes shall not issue more than one such permit per member for use in any Walleye Lake System during a 24-hour period.

6.7. **Monitoring Harvest under Threshold Level Procedures.** The Tribes shall require that Tribal members report harvests using Specially Regulated Fishing Methods under Threshold Level Procedures as a condition of receiving a fishing permit. The Tribes shall provide an annual summary of those harvest reports to the State and all Tribes by January 31 of the year following the harvests, or by such other date as may be mutually agreed upon by the State and the Tribes. This annual summary shall include the number of permits issued and the total number of fish harvested by species, gear type, and Tribe for each Walleye Lake System.

6.8. **Monitoring Fishing Activity under Threshold Level Procedures.** The Tribes shall monitor Fishing activity by Tribal members using Specially Regulated Fishing Methods under Threshold Level Procedures as necessary to ensure compliance with Tribal Fishing regulations and Tribal permits. The Tribes shall use professional biological or law enforcement personnel when monitoring of Fishing activity is deemed necessary under this Paragraph 6.8. If violations are detected, they shall be handled in accordance with law enforcement procedures described in Section XXIV (Law Enforcement) of the Decree.

6.9. **Monitoring Fish Populations under Threshold Level Procedures.** Biological surveys of the population of Adult Walleyes are not required under Threshold Level Procedures.

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## VII. ALLOCATION-BASED PROCEDURES

**7.1. Use of Allocation-Based Procedures.** If one or more of the Tribes seeks to authorize its members to use Specially Regulated Fishing Methods in a Walleye Lake System in excess of the Threshold Harvest Level for that Walleye Lake System, or if one or more of the Tribes seeks to authorize Fishing Effort with Impoundment Nets or Long Seines for species other than walleyes in excess of the limitations set forth under Subparagraph 6.5(b) of this Protocol or those adopted under Subparagraph 6.5(c) of this Protocol, then Allocation-Based Procedures shall be used in that Walleye Lake System in accordance with this Section VII. The primary goal of Allocation-Based Procedures is to protect fish populations from Overfishing so that fishery resources are maintained in a healthy condition for the benefit of all current and future State and Tribal users, while at the same time providing the Tribes and the State with flexibility in managing Fishing activity of Tribal and State fishers and enabling the Tribes and the State each to harvest a specific species of fish in a Walleye Lake System at up to 50% of the Total Allowable Annual Exploitation Rate for that species .

**7.2. Objectives of Allocation-Based Procedures; Methods for Achieving Objectives.** As set forth above, the foremost objective of Allocation-Based Procedures is to maintain the total annual exploitation rate of Adult Walleyes by Tribal and State-licensed fishers in a Walleye Lake System at or below the Total Allowable Annual Exploitation Rate for that Walleye Lake System. A second objective is to maintain the total annual exploitation rates of other fish species in Walleye Lakes Systems at acceptable levels. A third objective of Allocation-Based Procedures is to enable Tribal members to harvest Adult Walleyes and other species of fish using Specially Regulated Fishing Methods in a Walleye Lake System in excess

of the Threshold Harvest Level for that Walleye Lake System. These objectives are accomplished by: (1) determining the Total Harvest Level that can occur in a Walleye Lake System in accordance with Section V of this Protocol, except that, if the estimated number of Adult Walleyes is *not* based on a Michigan regression equation under Paragraph 4.1 of this Protocol, an empirical population estimate under Paragraph 4.2 of this Protocol, or an alternative method that does not require the application of a percentage reduction for the value of N in Equation 3 when Fishing under Allocation-Based Procedures in Walleye Lake Systems of 1,000 surface acres or more (excluding tributaries) under Paragraph 4.3 of this Protocol, the value of “N” in Equation 3 shall be 70% of the estimated number of Adult Walleyes for lakes of 1,000 surface acres or more (excluding tributaries) and 50% of the estimated number of Adult Walleyes for lakes of less than 1,000 surface acres (excluding tributaries); (2) setting harvest limits for Tribal members using Specially Regulated Fishing Methods and for State-licensed fishers using other fishing methods, as set forth in Paragraph 7.4 of this Protocol; (3) completely monitoring harvests to ensure compliance with such harvest limits, as set forth in Paragraph 7.6 of this Protocol; and (4) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Section VIII of this Protocol. In the event that the State or one or more Tribes believe these methods are insufficient to protect walleye or other species of fish in a Walleye Lake System, it shall propose additional methods to protect such fish, and the State and the Tribes shall consult for the purpose of developing such methods as provided in Paragraph 7.3 of this Protocol.

**7.3. Invoking Allocation-Based Procedures.** One or more Tribes may invoke Allocation-Based Procedures for any individual Walleye Lake System by declaring its intention to authorize the use of Specially Regulated Fishing Methods to harvest a number of Adult

Walleyes that exceeds the Threshold Harvest Level for that Walleye Lake System. Under Allocation-Based Procedures, the Tribes may declare their intent to authorize the use of Specially Regulated Fishing Methods to harvest up to 50% of the Total Harvest Level for a Walleye Lake System, less a reasonable estimate (based on information obtained under Subparagraph 7.6(b) of this Protocol) of the harvest by Tribal members using other fishing methods. The Tribe(s) shall notify the State of its intention to invoke Allocation-Based Procedures on any Walleye Lake System by July 1 of the year preceding the year in which the proposed harvests are to occur, or by such other date as may be mutually agreed upon by the State and the Tribes. Upon delivery and receipt of such notice, the State and the Tribes shall prepare to implement the Allocation-Based Procedures described in this Section VII, including, if necessary, the development of methods to protect species of fish other than walleye in Walleye Lake Systems.

**7.4. Harvest Regulations under Allocation-Based Procedures.**

(a) **State and Tribal Regulations.** After one or more Tribes declare its intent to invoke Allocation-Based Procedures in a Walleye Lake System, the State and the Tribes shall confer to determine the appropriate levels of harvest for Adult Walleyes and other species of fish by Tribal fishers using Specially Regulated Fishing Methods and by State-licensed fishers, including, if necessary, reductions in harvests by State-licensed fishers. Such levels of harvest for Adult Walleyes and other species of fish shall be based on: (1) the Total Harvest Level that can occur in a Walleye Lake System as determined in accordance with Section V and Paragraph 7.2 of this Protocol; and (2) the percentage of the Total Harvest Level declared by the Tribes under Paragraph 7.3 of this Protocol. In order to protect the resource, the State and the Tribes shall then take steps to regulate harvests by their respective fishers to remain within their

designated harvest levels, and to assess the walleye population, as necessary. The Parties understand that in all likelihood it may take up to three years to modify existing regulations governing State-licensed fishers to achieve the appropriate harvest levels for such fishers; however, best efforts shall be made to phase-in the necessary regulations as quickly as possible during any such period.

(b) **Non-Participating Tribes.** In the event that a Tribe decides not to participate in the additional management actions required under Allocation-Based Procedures, that Tribe shall restrict its members' Fishing Effort with Specially Regulated Fishing Methods in that Walleye Lake System in the manner set forth in Paragraph 6.5 of this Protocol so that the number of walleye allowed for harvest by its members using Specially Regulated Fishing Methods does not exceed one-fifth of the Threshold Harvest Level for that Walleye Lake System, *provided* that in applying Subparagraph 6.5(e) of this Protocol under these circumstances, "reliable information" shall be limited to: (1) the release or cancellation of a permit before the effective date of the permit; and (2) information obtained through voluntary compliance with the monitoring provisions set forth in Subparagraph 7.6(a) of this Protocol.

(c) **List of Lakes Subject to Allocation-Based Procedures.** A final list of all Walleye Lake Systems declared for management under Allocation-Based Procedures shall be developed by February 15 of the year in which Fishing under Allocation-Based Procedures will occur, or by such other date as may be mutually agreed upon by the State and the Tribes. The list shall indicate the maximum number of Adult Walleyes available for harvest by Tribal members using Specially Regulated Fishing Methods and other fishing methods, and the maximum number of Adult Walleyes that will be available for harvest by State-licensed fishers in each year that a Walleye Lake System is on the list. The Tribes are responsible for

determining allocations among the Tribes on Walleye Lake Systems declared for management under Allocation-Based Procedures. Annual allocations among the Tribes of harvests with Specially Regulated Fishing Methods can vary as the Tribes desire, but the sum of such allocations cannot exceed 50% of the Total Harvest Level less a reasonable estimate (based on information obtained under Subparagraph 7.6(b) of this Protocol) of the harvest by Tribal members using other Fishing methods.

(d) **Removal of Walleye Lake Systems from Allocation-Based Procedures.**

Walleye Lake Systems shall be removed automatically from the Allocation-Based Procedures list for the upcoming year if the Tribes do not declare their intention to harvest Adult Walleyes in excess of the Threshold Harvest Level using Specially Regulated Fishing Methods by July 1 of the year preceding the year in which the proposed harvests are to occur, or by such other date as may be mutually agreed upon by the State and the Tribes. In addition, if Tribal members did not attempt to harvest walleyes using Specially Regulated Fishing Methods from a Walleye Lake System that had been declared for Allocation-Based Procedures in the previous year, that Walleye Lake System shall be automatically removed from the Allocation-Based Procedures list for the following year. When a Walleye Lake System is removed from the Allocation-Based Procedures list, it reverts to being managed under Threshold Level Procedures.

7.5. **Permit System under Allocation-Based Procedures.** The Tribes shall require their members to obtain permits to fish with Specially Regulated Fishing Methods under Allocation-Based Procedures. The permits shall include the name of the Tribal member, the starting date and time of the 24-hour period(s) during which the permit is effective, the Walleye Lake System for which the permit is issued, and the walleye bag limit for each 24-hour period authorized under the permit. The permits and the walleye bag limit shall be consistent with the

management objectives of the Tribal permit system and the Allocation-Based Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of the Allocation-Based Procedures. The Tribes shall not issue more than one such permit per member for use in any Walleye Lake System during a 24-hour period.

**7.6. Monitoring Harvest under Allocation-Based Procedures.**

(a) **Fish Harvested with Specially Regulated Fishing Methods.** The Tribe or Tribes that invokes Allocation-Based Procedures for a Walleye Lake System shall be responsible for monitoring the Fishing activity and harvests of the members of all the Tribes Fishing under Allocation-Based Procedures in that Walleye Lake System with Specially Regulated Fishing Methods. On each Walleye Lake System that is being managed under Allocation-Based Procedures, the responsible Tribe(s) shall identify specific sites on the shore of the Walleye Lake System being Fished where all Tribal fishers of the Tribes that invoked Allocation-Based Procedures shall check in before Fishing and check out after Fishing. At the time of check out, all Tribal fishers of the Tribes that invoked Allocation-Based Procedures shall present for examination all fish harvested. All fish harvested by Tribal members using Specially Regulated Fishing Methods under Allocation-Based Procedures shall be identified by species, counted, and recorded, and a sample of fish of each species harvested each day shall be measured, by professional biological or law enforcement personnel of the Tribe(s) that invoked Allocation-Based Procedures.

(b) **Fish Harvested with Fishing Methods Other Than Specially Regulated Fishing Methods.** The State shall conduct creel surveys to estimate fish harvested with Hook and Line Gear, whether by Tribal or State-licensed fishers, on Walleye Lake Systems declared for Allocation-Based Procedures, with the same frequency as the fish population

assessments required under Paragraph 7.7. The Tribes shall encourage and facilitate their members' cooperation with such surveys. The Tribes shall estimate the number of fish harvested by their members who use Fishing methods other than Specially Regulated Fishing Methods or Hook-and-Line-Gear in accordance with Paragraph 11.3 of the Decree.

(c) **Data Sharing.** The Tribes and the State shall share data regarding the total annual harvest by all Tribal and State-licensed fishers and information regarding the Fishing methods used by January 31 of the year following harvest, or by such other date as may be mutually agreed upon by the State and the Tribes.

**7.7. Monitoring Fish Populations under Allocation-Based Procedures.** Empirical population estimates of Adult Walleyes must be conducted as frequently as determined necessary by the Tribes and the State on Walleye Lake Systems declared for Allocation-Based Procedures by one or more Tribes. If an empirical population estimate of Adult Walleyes is deemed necessary, then the Tribe(s) that invoked Allocation-Based Procedures and the State shall share equally in obtaining the empirical population estimate of Adult Walleyes, unless otherwise mutually agreed upon by the Tribes and State. Surveys shall be conducted by professional biological personnel of the State and those Tribe(s) that invoked Allocation-Based Procedures. Unless the State and the Tribes mutually agree otherwise, they shall use the empirical population estimate of the Adult Walleye population in such Walleye Lake Systems in accordance with Section IV of this Protocol, except that an empirical population estimate of Adult Walleyes for a Walleye Lake System shall be recorded and shall be used for four years, or until an empirical population estimate of Adult Walleyes is calculated from a new population assessment to replace it. After four years, an empirical population estimate of the Adult Walleyes for a Walleye Lake

System shall be discarded and shall be replaced with the population estimate of Adult Walleyes using the procedures as set forth in Paragraph 4.1 of this Protocol.

#### VIII. BAG, POSSESSION, AND SIZE LIMITS AND SEASONS

The Tribes shall use bag, possession, and size limits and seasons to regulate their members' harvest of Adult Walleyes and other species of fish with Specially Regulated Fishing Methods in a Walleye Lake System in accordance with Paragraph 11.3 of the Decree, including daily bag and minimum size limits for the harvest of trout, bass, northern pike, and muskellunge and daily bag and possession limits for the harvest of bluegill, sunfish, crappie, lake whitefish, and yellow perch. In addition, the Tribes and the State shall impose at least a 14-inch minimum size limit on all walleye harvests. The Tribes shall require Tribal members who inadvertently spear walleyes that are less than the minimum size limit to retain them as part of the daily bag limit without penalty to the fisher, except that the Tribes shall prohibit the intentional targeting of walleyes below the legal size limit. The minimum size limit required by this Section VIII may be changed by mutual agreement of the Tribes and the State.

Table 1. – List of Walleye Lake Systems in the 1836 Ceded Territory with the initial determination of the source of recruitment and the Threshold Harvest Levels.

Walleye Lake System Name	County	Lake Surface Area (Acres)	Estimated Number of Adult Walleyes <sup>1</sup>	Source of Recruit- ment <sup>2</sup>	Threshold Harvest Level (Numbers of Adult Walleyes)
<b>Lakes ≥ 1,000 acres</b>					
Houghton Lake	Roscommon	20,075	59,297	n	5,930
Burt Lake	Cheboygan	17,395	42,032 <sup>3</sup>	n	4,203
Charlevoix, Lake	Charlevoix	17,268	9,859 <sup>3</sup>	s	986
Mullett Lake	Cheboygan	16,704	49,740	n	4,974
Big Manistique Lake	Mackinac	10,346	11,856 <sup>3</sup>	n	1,186
Black Lake	Cheboygan	10,113	14,013 <sup>3</sup>	n	1,401
Indian Lake	Schoolcraft	8,647	26,506	n	2,651
Leelanau, Lake	Leelanau	8,607	54,665 <sup>3</sup>	n	5,467
Grand Lake	Presque Isle	5,822	4,641 <sup>3</sup>	n	464
Long Lake	Alpena	5,342	3,695 <sup>3</sup>	n	370
Hamlin Lake	Mason	4,622	5,467	s	547
Brevoort Lake	Mackinac	4,315	5,140	s	514
Muskegon Lake	Muskegon	4,232	37,890 <sup>3</sup>	s	3,789
South Manistique Lake	Mackinac	4,133	7,898 <sup>3</sup>	n	790
Crooked-Pickerel lakes	Emmet	3,434	10,963	n	1,096
Long Lake	Grand Traverse	2,911	9,361	n	936
Hardy Dam Pond	Newaygo	2,773	8,936	n	894
Skegemog, Lake	Kalkaska/ Grand Traverse	2,766	3,449	s	345
Mitchell, Lake	Wexford	2,649	8,554	n	855
White Lake	Muskegon	2,535	3,190	s	319
Platte Lake	Benzie	2,532	3,186	s	319
Portage Lake	Manistee	2,116	2,712	s	271
Missaukee, Lake	Missaukee	2,035	2,619	s	262
Milakokia Lake	Mackinac	2,031	6,635	n	664
Otsego Lake	Otsego	2,013	2,594	s	259
Margrethe, Lake	Crawford	1,922	2,488	s	249
Paradise, Lake	Emmet	1,912	6,263	n	626
Bear Lake	Manistee	1,873	2,431	s	243
Bellaire, Lake	Antrim	1,789	5,877	n	588
North Manistique Lake	Luce	1,709	1,527 <sup>3</sup>	n	153
Intermediate Lake	Antrim	1,571	2,077	s	208
Hodenpyl Dam Pond	Wexford	1,530	5,061	n	506
Au Train (Cleveland Cliffs) Basin	Alger	1,489	4,932	n	493
McDonald Lake	Schoolcraft	1,441	1,922	s	192
West Twin Lake	Montmorency	1,306	1,759	s	176
Cadillac, Lake	Wexford	1,172	3,923	n	392
Croton Dam Pond	Newaygo	1,129	3,785	n	379
Millecoquins Lake	Mackinac	1,123	1,537	s	154
Tippy Dam Pond	Manistee	1,086	3,647	n	365 <sup>4</sup>

Table 1. – Continued.

Walleye Lake System Name	County	Lake Surface Area (Acres)	Estimated Number of Adult Walleyes <sup>1</sup>	Source of Recruit- ment <sup>2</sup>	Threshold Harvest Level (Numbers of Adult Walleyes)
<b>Lakes ≥ 1,000 acres</b>					
Manistee Lake	Manistee	1,051	3,535	n	354
<b>Lakes &lt; 1000 acres</b>					
Big Star Lake	Lake	890	1,247	s	62
Gulliver Lake	Schoolcraft	881	1,236	s	62
Manistee Lake	Kalkaska	874	1,227	s	61
Au Train Lake	Alger	845	2,869	n	143
Caribou Lake	Chippewa	829	2,817	n	141
Fremont Lake	Newaygo	825	1,165	s	58
East Twin Lake	Montmorency	820	1,159	s	58
Chippewa Lake	Mecosta	791	1,122	s	56
Beaver Lake	Alger	783	2,668	n	133
Muskallonge Lake	Luce	762	2,599	n	130
Silver Lake	Oceana	672	969	s	48
Mona Lake	Muskegon	656	949	s	47
Silver Lake	Grand Traverse	609	887	s	44
Fife Lake	Grand Traverse	606	884	s	44
Pere Marquette Lake	Mason	606	884	s	44
Upper Herring Lake	Benzie	572	839	s	42
Trout Lake	Chippewa	568	1,963	n	98
Big Whitefish Lake	Montcalm	502	746	s	37
Crooked Lake	Missaukee	490	730	s	37
Round Lake	Delta	482	720	s	36
Pentwater Lake	Oceana	482	1,678	n	84
Lake Geneserath	Charlevoix	480	717	s	36
Straits/Corner/Deep/ Skeels Lake Chain	Delta	472	706	s	35
Beaufort Lake	Baraga	467	699	s	35
Little Lake	Marquette	460	690	s	35
Lower Herring Lake	Benzie	450	677	s	34
Spider Lake	Grand Traverse	445	1,554	n	78
Horsehead Lake	Mecosta	443	667	s	33
Lincoln Lake	Kent	417	632	s	32
Eight Point Lake	Clare	416	1,457	n	73
Long Lake	Cheboygan	379	494 <sup>3</sup>	n	25
Rose Lake	Osceola	373	572	s	29
Sixmile Lake	Antrim	369	566	s	28
Round Lake	Emmet	353	544	s	27
Big Bear Lake	Otsego	344	532	s	27
Rogers Impoundment	Mecosta	337	1,192	n	60

Table 1. – Continued.

Walleye Lake System Name	County	Lake Surface Area (Acres)	Estimated Number of Adult Walleyes <sup>1</sup>	Source of Recruit- ment <sup>2</sup>	Threshold Harvest Level (Numbers of Adult Walleyes)
<b>Lakes &lt; 1000 acres</b>					
Big Blue Lake	Muskegon	336	521	s	26
Stella Lake	Alger	332	515	s	26
Thunder Lake	Schoolcraft	331	514	s	26
Birch Lake	Antrim	325	505	s	25
Lake Esau	Presque Isle	319	497	s	25
Boardman Lake	Grand Traverse	317	494	s	25
Lake Mecosta	Mecosta	312	1,107	n	55
Pickerel Lake	Newaygo	308	481	s	24
Pike Lake	Luce	286	1,019	n	51
Coldwater Lake	Isabella	285	449	s	22
Long Lake	Montmorency	279	995	n	50
Bodi Lake	Luce	275	435	s	22
Bass Lake	Marquette	273	432	s	22
Deer Lake	Alger	266	422	s	21
Lake Sapphire	Missaukee	246	394	s	20
Schweitzer Cr Flowage	Marquette	245	392	s	20
Hart Lake	Oceana	236	379	s	19
Wolf Lake	Muskegon	225	363	s	18
Big Lake	Osceola	212	344	s	17
Long Lake	Clare	211	762	n	38
Rainy Lake	Presque Isle	202	730	n	37
Bills Lake	Newaygo	200	327	s	16
Clifford Lake	Montcalm	195	320	s	16
Petes Lake	Schoolcraft	194	703	n	35
Bass Lake	Kent	188	682	n	34
School Section Lake	Oceana	187	308	s	15
Frenchmans Lake	Chippewa	185	305	s	15
Little Whitefish Lake	Montcalm	180	297	s	15
Monocle Lake	Chippewa	172	626	n	31
Little Brevoort Lake	Mackinac	163	595	n	30
Nichols Lake	Newaygo	153	257	s	13
Bass Lake	Luce	144	529	n	26
Littlefield Lake	Isabella	140	237	s	12
Steuben Lake	Schoolcraft	136	231	s	12
Robinson Lake	Oceana	134	228	s	11
Pleasant Lake	Wexford	130	222	s	11
Gooseneck Lake	Delta	128	219	s	11
Gemini Lakes	Schoolcraft	128	219	s	11
East Lake	Luce	125	214	s	11
Ocqueoc Lake	Presque Isle	125	462	n	23
Big Lake	Otsego	124	213	s	11

Table 1. – Continued.

Walleye Lake System Name	County	Lake Surface Area (Acres)	Estimated Number of Adult Walleyes <sup>1</sup>	Source of Recruit- ment <sup>2</sup>	Threshold Harvest Level (Numbers of Adult Walleyes)
<b>Lakes &lt; 1000 acres</b>					
School Section Lake	Mecosta	122	210	s	11
Kingston Lake	Alger	122	451	n	23
Hackert Lake	Mason	120	207	s	10
Ess Lake	Montmorency	119	440	n	22
Pretty Lake	Mecosta	116	201	s	10
Long Lake	Mason	107	398	n	20
Boot Lake	Schoolcraft	106	185	s	9
Lake Twentyseven	Otsego	106	394	n	20
Crockery Lake	Ottawa	104	182	s	9
Culhane Lake	Luce	100	176	s	9
<b>Totals</b>	<b>1836 Territory</b>	<b>218,343</b>	<b>508,507</b>		<b>47,713</b>

<sup>1</sup> Unless otherwise indicated, the estimates of population size are based on 2007 Wisconsin Regression Equations for lakes with walleye populations in which the primary recruitment sources are either natural reproduction or stocked fish, whichever is appropriate.

<sup>2</sup> n = walleye recruitment is 50% or more from natural reproduction or walleye recruitment composition from naturally produced and stocked walleyes is unknown; s = walleye recruitment is more than 50% from stocked walleyes.

<sup>3</sup> Estimate of population size was based on a recent biological survey conducted by the Michigan Department of Natural Resources or the Tribes within the past 5 years.

<sup>4</sup> The State and the Little River Band of Ottawa Indians agree to cooperate in jointly conducting a population assessment at Tippy Dam Pond within two years of the entry of this Decree.